

REMARKS

The following remarks are submitted to address all issues in this case, and to put this case in condition for allowance. Applicant amends the claims in this case simply to better define the subject matter of the present invention. The specification and drawings are amended simply to add FIG. 7E. No new matter is believed to be added in these amendments. Application claims 34, 35, 38-44, 47-50, and 57-63 are pending in the application. Claim 57 is withdrawn from consideration. Application claims 34, 47, 50, and 57 are the only independent claims. Applicant has studied the Office Action mailed January 3, 2008 ("Office Action") and has the following remarks.

35 U.S.C. § 112

The Examiner has rejected prior claims 59 and 61 under 35 U.S.C. § 112 as failing to comply with the written description requirement. Applicant respectfully traverses the rejection as the specification, at the time the application was filed, supported a machine wherein a pull-type exercise comprises a converging exercise and a push-type exercise comprises a diverging exercise.

In the application as originally filed, it is provided that "the motion of the hands is generally converging for some exercises (often those where the user pushes something away from the body) and diverging for other exercises (often those where the user pulls something towards their body) as this motion is much more natural to the user," however, "pull-type exercises and/or push-type exercises may either be converging or diverging exercises." (page 15, lines 7-11) (emphasis added).

Further, the application as originally filed described embodiments of a machine wherein the exercises “are generally push or pull-type exercises that either converge or diverge.” (page 21, lines 11-12) (emphasis added). In addition, in the application as originally filed, FIG. 1 shows the primary components of an exercise machine that allows a user to perform both push-type and pull-type, converging and/or diverging exercises for muscles primarily in the upper torso. (page 22, lines 17-20). Further, the application as originally filed provides that “while FIGS. 3 through 6 show the performance of the above two exercises, it should be appreciated that by moving the user relative to the handles, with arm motion along a singular fixed path, the user can perform virtually any exercise. In particular, in FIG. 7D the user could be moved to the forward-most part of the circles and then face rearward to perform a converging pull-type exercise using the same handle be used for the converging push-type exercise.” (page 30, lines 14-19) (emphasis added). Lastly, it is noted that claims 20-25 as originally filed provided for an exercise machine with a push-type and pull-type converging exercise and a pull-type and a push-type diverging exercise.

Thus, the specification does not limit the exercise machine to a pull-type diverging exercise and a push-type converging exercise - a pull-type converging exercise and a push-type diverging exercise were also contemplated, as supported by the written description and accompanying drawings. Accordingly, Applicant contends that claims 59 and 61 are supported by the application as filed and respectfully requests withdrawal of the Examiner’s rejection under 35 U.S.C. § 112.

Drawings

The Examiner has objected to the drawings under 37 C.F.R. 1.83(a). The Examiner states that a pull-type exercise comprising a converging exercise and a push-type exercise comprising a diverging exercise are not shown in the drawings. While the Applicant contends the prior drawings are sufficient, Applicant respectfully submits a new sheet containing new FIG. 7E in response to this objection. The specification as originally filed in the application, provides that “In particular, in FIG. 7D the user could be moved to the forward-most part of the circles and then face rearward to perform a converging pull-type exercise using the same handle be used for the converging push-type exercise.” (page 30, lines 14-19). Thus, these exercises were clearly contemplated in the specification and no new matter is added. The specification has also been amended to reference the new FIG. 7E.

Further, the Examiner states that the first arm and second arm moving dependently are not shown in the drawings. The Applicant respectfully traverses this objection as the drawings show these features of the invention. Specifically, FIGS. 4 and 6 show arms moving together. Such movement could be either dependent or independent. FIG. 9 specifically shows independent movement while the specification indicates the alternatives of independent or dependent movement (See e.g., page 36). Therefore, Applicant respectfully contends that FIGS. meet the requirements of 37 C.F.R. 1.83(a).

35 U.S.C. § 102 / 35 U.S.C. § 103

The Examiner has rejected claims 47, 49, 50, 58, 59, 62 and 63 under 35 U.S.C. §102 as being anticipated by *Hammer Strength* (Iso-Lateral Chest Press/Lat Pulldown). Further, the Examiner rejects claims 39, 48, 60, and 61 as being unpatentable over *Hammer Strength* in view

of *Domzalski* (US Pat. 5,217,422); claim 43 as being unpatentable over *Hammer Strength* in view of *Baldwin* (US Pat. 4,478,411) and claim 43 as being unpatentable over *Hammer Strength* in view of *Simonson* (US Pat. 5,580,341) under 35 U.S.C. § 103(a). Applicant respectfully traverses these rejections, as *Hammer Strength* and the combination of *Hammer Strength* with *Domzalski*, *Baldwin* or *Simonson* fail to show all of the Applicant's claimed elements, namely allowing the user to perform a first exercise motion facing forward on the seat and a second exercise motion facing backward on the same seat.

Hammer Strength discloses an Iso-Lateral Chest Press/Lat Pulldown exercise machine which comprises a frame; a weight resistance horn for supporting a plurality of weight plates; first and second arms rotatably attached to the frame to rotate only about respective first and second axes permitted by respective first and second pivot points; and first and second sets of handles attached to the arms, wherein the first set of handles are manipulated by a user to perform a pushing, converging exercise along a fixed path. However, this device does not show an exercise machine which allows the user to perform the exercises seated in the same seat by reversing their facing. Rather in *Hammer Strength* there are two separate seats, one on each side of the device, i.e., in *Hammer Strength* a user must change seats to perform different exercises.

This is a different exercise machine than that of the instant claims. In the instant claims, a user can rotate or otherwise adjust on the same seat to perform different exercises on the machine by changing their facing. Specifically, in the instant claims a user can be placed into many different positions relative to the two arms of the exercise machine, while staying on the same seat by turning forward or backward or otherwise adjusting their body position on the seat. The user can grasp a set of handles at a particular location and perform a particular exercise utilizing the arms in that position. Then, the user can change position to perform another

exercise on a related arc. For example, user can rotate 180 degrees, can lean at different angles forward or back, or can change using a combination of the two. (See page 21). Thus, in the instant claims, the user can access a different set of handles and interact with the arms in a variety of places simply by changing his or her body positioning on the same seat. The user never needs to change to a different seat on the machine in order to access a different exercise.

This same seat element of the instant claims provides for a machine in which the user can more easily perform multiple resultant exercises. Multiple seats are not needed or required to perform the at least two different exercises. This saves space, and in addition, limits the problems involved with pieces of prior art such as *Hammer Strength* where the user must get up and walk around the machine to a different seat in order to perform a different exercise. In contrast, in the present claims, a user can just rotate or adjust their positioning on the same seat, thereby accessing different exercises with greater ease.

As *Hammer Strength* fails to teach or suggest an exercise machine allowing a user to perform a first exercise motion facing forward on a seat and a second exercise motion facing backward on the same seat, *Hammer Strength* cannot anticipate the elements of the claims.

Simply for the sake of completeness, it is noted that none of the additional references of *Domzalski*, *Baldwin* or *Simonson* fill the holes of *Hammer Strength*. Specifically, the combination of *Hammer Strength* with *Domzalski*, *Baldwin* or *Simonson* fails to show all of the Applicant's claimed elements, namely an exercise machine allowing the user to rotate or adjust on the same seat to perform different exercises when facing forward or backward. Because the combination of *Hammer Strength* with *Domzalski*, *Baldwin* or *Simonson* fails to show all of the Applicant's claimed elements, Applicant respectfully asserts that Applicant's claims 39, 43, 48, 60 and 61 are allowable.

Conclusion

In conclusion, Applicant respectfully asserts that its claims as amended herein are allowable. As *Hammer Strength* and the combination of *Hammer Strength* with *Domzalski*, *Baldwin* or *Simonson* fails to show all of the Applicant's claimed elements, namely an exercise machine allowing the user to perform a first exercise motion facing forward on a seat and a second exercise motion facing backward on the same seat, *Hammer Strength* cannot anticipate the elements of the present claims and the combination of *Hammer Strength* with *Domzalski*, *Baldwin* or *Simonson* cannot be obvious.

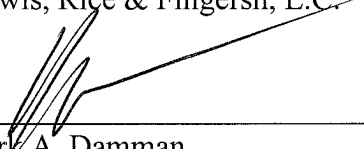
In light of the above remarks, Applicant believes there are no further issues regarding the patentability of the pending claims and respectfully requests the Examiner withdraw the rejections and allow all pending claims so that this case can pass on to issue.

Applicant encloses herein a petition for a one month extension of time and the requisite petition fee. Applicant believes that no other fees are due in connection with the filing of this Response. However, the Commissioner is hereby authorized to charge or credit to our Deposit Account, No. 50-0975, any fees due in connection with the filing of this Response.

If there are any questions regarding this Response, the Examiner is invited to contact the undersigned at (314) 444-1316.

Respectfully submitted,
Lewis, Rice & Fingersh, L.C.

Dated: May 5, 2008



Kirk A. Damman
Registration No. 42,461
Attorney for Applicant

Customer Number: 22822

Lewis, Rice and Fingersh, L.C.
Attn: Box IP Dept.
500 N. Broadway, Suite 2000
St. Louis, MO 63102-2147
Tel: (314) 444-7600
Fax: (314) 444-7788